Calendar No. 939

99TH CONGRESS
2d Session

SENATE

REPORT
99-455

VALIDATING CONVEYANCE OF CERTAIN LANDS IN THE STATE OF CALIFORNIA

SEPTEMBER 19 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 2067]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2067), to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

H.R. 2067, as reported, would remove clouds from the title to certain lands in California which were formerly granted to the Central Pacific Railway Company.

BACKGROUND AND NEED

H.R. 2067 would legalize, validate and confirm certain Central Pacific Railroad Company conveyances of right-of-way lands as far as any interest of the United States is concerned. The parcels of land involved are portions of 400-foot wide rights-of-way that were granted by the United States to the Central Pacific Railway Company, now operating as the Southern Pacific Transportation Company, under the provisions of the Act of July 1, 1862. the 42 parcels include: 37 in San Joaquin County, three in Sacramento County, one in Kings County, and one in Nevada County, California.

There is no general authority for the railroad companies to make conveyances of any or all of the lands or interests in lands within their rights-of-way. The Act of May 25, 1920 (43 U.S.C. 913), author-

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ized railroad companies that had been granted rights-of-way through public lands, to convey such rights-of-way to States, counties or municipalities for use as public highways or streets, but prohibits diminishing the rights-of-way to less than 50 feet on each side of the center of the main track. A law similar to the 1920 Act is found in section 316 of title 23 of the United States Code. These statutes do not appear to be applicable to the present situation because it appears that the rights-of-way were not conveyed for use as roads and streets.

The Act of March 8, 1922 (43 U.S.C. 912), provides that upon a declaration by an Act of Congress, or a court, that a railroad has forfeited or abandoned a right-of-way, all right, title and interest of the United States in the lands within the right-of-way pass to those parties who have acquired title of the United States lands adjoining the right-of-way, except that those forfeited rights-of-way located in a municipality pass to the municipality. The 1922 Act is not applicable to the present situation because there has been no legislative or judicial declaration of abandonment of the right-of-way.

H.R. 2067 would ratify the 42 conveyances made by the railroad, resulting in the removal of clouds on the titles to the lands concerned arising from possible reversionary interests of the United States.

The Act includes savings clauses to avoid any implied diminishment of the right-of-way to less that 50 feet on each side of the center of the tracks and to avoid any implied confirmation of validation of claims based on adverse possession, prescription, or abandonment. The Act also reserves to the United States the mineral interests in all the lands affected by the Act.

LEGISLATIVE HISTORY

H.R. 2067 was introduced by Representative Shumway on March 16, 1985. The measure passed the House of Representatives on December 3, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on H.R. 2067 and its Senate companion, S. 1413, on April 11, 1986.

At a business meeting on September 11, 1986, the Senate Committee on Energy and Natural Resources ordered H.R. 2067 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September, 11, 1986, by a majority vote of a quorum present recommends that the Senate pass H.R. 2067 as described herein.

The rollcall vote on reporting the measure was *15* yeas, *1* nay as follows:

YEAS	NAYS
Mr. McClure	Mr. Metzenbaum*
Mr. Hatfield	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	

Mr. Warner
Mr. Murkowski
Mr. Nickles
Mr. Hecht
Mr. Evans
Mr. Bumpers
Mr. Ford
Mr. Bradley*
Mr. Bingaman*
Mr. Rockefeller*

*Indicates voted by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 11, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2067, the Railroad Right-of-Way Conveyance Validation Act of 1985, as ordered reported by the Senate Committee on Energy and Natural Resources, September 11, 1986.

The act would validate 42 conveyances to various parties made by the Central Pacific Railway Company of railroad right-of-way lands originally granted to the railroad company by the United States. We estimate that enactment of this legislation would result in no cost to the federal government or to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2067. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 2067, as reported.

EXECUTIVE COMMUNICATIONS

The following legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relates to S. 1413, a measure similar to H.R. 2067.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, December 4, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1413, a bill "To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the central Pacific Railway Company."

We have no objection to S. 1413.

S. 1413 would legalize, validate and confirm certain Central Pacific Railroad Company conveyances of right-of-way lands as far as any interest of the United States is concerned. The parcels involved are portions of 400-foot wide rights-of-way that were granted by the United States to the Central Pacific Railway Company, now operating as the Southern Pacific Transportation Company, under the provisions of the Act of July 1, 1862. Of the 41 parcels involved in this legislation, 337 are in San Joaquin County, two are in Sacramento County, one is in Kings County, and one is in Nevada County, California.

There is no general authority for the railroad companies to make conveyances of any or all of the lands or interests in lands within their rights-of-way. The Act of May 25, 1920 (43 U.S.C. 813), authorized railroad companies that had been granted rights-of-way through public lands, to convey such rights-of-way to States, counties, or municipalities for use as public highways or streets, but prohibits diminishing the rights-of-way to less than 50 feet on each side of the center of the main track. A law similar to the 1920 Act is also found in section 316 of Title 23 of the United States Code. This statute does not appear to be applicable to the present situation.

The Act of March 8, 1922 (43 U.S.C. 912), provides that upon a finding by an Act of Congress, or a court, that a railroad has forfeited or abandoned a rights-of-way, all right, title and interest of the United States in the lands within the rights-of-way pass to those parties who have acquired title to the United States in the land adjoining the rights-of-way, except that those forfeited rights-of-way located in a municipality pass to the municipality. The 1922 Act likewise is not applicable to the present situation because there has been no legislative or judicial declaration of abandonment of the right-of-way.

In the past several years, the Congress has considered a number of bills similar to S. 1413 to validate prior conveyances of railroad rights-of-way. The Department of the Interior has had no objection to the enactment of the bills provided that three criteria were met. These criteria are (1) that the lands adjacent to the portions of the right-of-way under consideration are non-Federal lands; (2) that the width of the remaining right-of-way be 50 feet or more on each side

of the center line of the main railroad track or tracks; and (3) that all oil, coal or other minerals be reserved to the United States. In this case, the rights-of-way involved in S. 1413 do traverse non-Federal lands, so the first criterion is met. Section 7(a)(1) and (b) of S. 1413 contain the appropriate reservations thereby making the legislation conform to the Department's second and third criteria, respectively.

We do have one concern with enactment of S. 1413. While enactment would validate the conveyances listed in the bill, as far as any interest of the United States is concerned, the involved parties would not be required to compensate the United States for the Federal interest that they would be acquiring in the lands comprising the rights-of-way.

In addition we note one technical problem with S. 1413. Section 7(a)(2), which states that the legislation is not intended to legalize any right to the described land arising out of adverse possession, omits reference to section 6, which confirms the conveyance of land in Nevada County, California.

Finally, while this legislation will contribute to clarifying the title situation of the adjacent landowners, it will not necessarily remove all clouds from their titles. There may be third parties who claim interest in the lands adverse to the adjacent landowners as grantees of the railroad. S. 1413 will not eliminate such claims and if any exist it may be necessary for the beneficiaries of this legislation to initiate quiet title proceedings in the appropriate courts.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's programs.

Sincerely,

J. STEVEN GRILES,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, H.R. 2067, as reported.

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Calendar No. 940

99TH CONGRESS
2d Session

SENATE

REPORT
99-456

CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION ACT

SEPTEMBER 19 (legislative day, SEPTEMBER 15), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1026]

The Committee on Energy and Natural Resources to which was referred the bill (S. 1026) to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

S. 1026 directs the cooperation of the Department of the Interior, the Department of Energy, and the National Science Foundation in implementing a Continental Scientific Drilling Program (CSDP) in order to enhance the knowledge and understanding of the composition, structure, dynamics, and evolution of the continental crust, including how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers.

BACKGROUND AND NEED

S. 1026 implements section 323 of the Joint Resolution making continuing appropriations for the fiscal year 1985 and for other purposes (Public Law 98-473; 98 Stat. 1875). Section 323 was essentially a Sense of the Congress statement that the Continental Scientific Drilling Program (CSDP) is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by government and the private sector and that

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CSDP should be enthusiastically implemented through a joint cooperative effort among the U.S. Department of Energy (DOE), the National Science Foundation (NSF), and the U.S. Geological Survey (USGS).

The joint cooperative effort was established between the DOE, NSF, and USGS following enactment of Public Law 98-473. Prior to this, the Deep Observation and Sampling of the Earth's Continental Crust, Inc. (DOSECC) was formed as a private, non-profit corporation by a consortium of universities to design and manage a national CSDP. DOE, NSF and USGS research program directors in cooperation with the National Academy of Science's Continental Scientific Drilling Committee and Board of Earth Sciences have been involved with the DOSECC organization.

The CSDP is a program involving scientific drilling occurring on land rather than ocean or deep sea drilling. While the United States began a major scientific drilling effort in 1968 with the Deep Sea Drilling Project (DSDP) and in 1975 with the International Phase Ocean Drilling (IOPD), there was no need evidenced at that time for a coordinated drilling program on land. Scientists now know that the continental crust evolved over a much longer period of time than that of the oceans, and it involved a greater number and diversity of processes. In comparison with marine geologists and geophysicists, the geoscience community concerned with the continents is larger, more diverse, and historically, more focused on problems of local than regional or continental scale.

LEGISLATIVE HISTORY

S. 1026 was introduced on April 26, 1985, by Senator Pressler. Cosponsors include Senators Durenberger, Matsunaga, Heinz, Domenici, Nickles, Stevens, Bentsen, Warner and Murkowski. On July 24, 1986, the Subcommittee on Natural Resources Development and Production held a legislative hearing on S. 1026. S. 1026 was considered by the Committee on Energy and Natural Resources on September 17, 1986, and favorably reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources met in open business session on September 17, 1986, and by unanimous voice vote of a quorum present recommends that the Senate pass S. 1026 without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill declares that the bill shall be cited as the "Continental Scientific Drilling and Exploration Act".

Section 2 declares that the purposes of the bill are to support and encourage the development of a national Continental Scientific Drilling Program; to enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust; to advance basic critical data regarding the earth's crust relating to isolation of hazardous wastes; and to develop a long-range plan for implementing such a program.

Section 3 states a number of congressional findings relating to the national interest in enhancing the knowledge and understanding of those areas identified in section 2.

Section 4 describes how the Continental Scientific Drilling Program will be implemented and requires a report to the Congress within 180 days after enactment of the bill describing, among other things, long- and short-term policy objectives; projected schedules of certain desirable scientific and engineering events; the extent and duration of resources and funding required; the benefits to be derived from such a program, the extent of participation or interest expressed nationally and internationally in such a program and any other information or recommendations deemed appropriate.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 19, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1026, the Continental Scientific Drilling and Exploration Act, as ordered reported by the Senate Committee on Energy and Natural Resources, September 17, 1986.

S. 1026 would implement section 323 of the joint resolution making continuing appropriations for fiscal year 1985, expressing the sense of the Congress that the Continental Scientific Drilling Program be pursued by the National Science Foundation (NSF), the Department of Energy (DOE), and the U.S. Geological Survey (USGS). The bill would direct the Interagency Accord on Continental Scientific Drilling, set up in response to Section 323, to continue to function and to submit a report on its activities and objectives to the Congress within six months of the bill's passage.

Based on information from NSF, USGS, and DOE, we estimate that enactment of S. 1026 will not result in significant additional costs to the federal government, and will not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD GRAMLICH
(For Rudolph G. Penner, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1026. The bill is not a regulatory measure in the sense of impos-

ing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore there would be no impact on personal privacy.

LIttle, if any, additional paperwork would result from the enactment of S. 1026, as reported.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources did not request any executive comments on S. 1026.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1026, as reported.

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